

By: Carona

S.B. No. 1118

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of tow trucks, tow truck operators, and vehicle storage facilities; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

(2) "Commission" means the Texas ~~[Transportation]~~ Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation ~~[Transportation]~~.

(4) "Executive director ~~[Director]~~" means the executive director of the department ~~[or a person designated by the executive director who is not below the rank of division or special office director]~~.

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS ~~[+ SANCTIONS]~~. The executive director ~~[commission]~~ shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; ~~[and]~~

1 (2) relate to the administrative sanctions that may be
2 imposed on a person licensed under this chapter;

3 (3) require an applicant for a license to submit
4 evidence that the applicant is in compliance with the drug testing
5 requirements of 49 C.F.R. Part 382, as those requirements exist on
6 September 1, 2007, if the requirements are applicable to the
7 applicant;

8 (4) provide for investigating any criminal conviction
9 of a license applicant or an applicant's employees, including
10 obtaining any criminal history information allowed by law; and

11 (5) govern the administration of this chapter.

12 SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code,
13 is amended by adding Sections 2303.055, 2303.056, and 2303.057 to
14 read as follows:

15 Sec. 2303.055. PERIODIC AND RISK-BASED INSPECTIONS. (a)
16 The department may enter and inspect at any time during business
17 hours:

18 (1) the place of business of any person regulated
19 under this chapter; or

20 (2) any place in which the department has reasonable
21 cause to believe that a license holder is in violation of this
22 chapter or in violation of a rule or order of the commission or
23 executive director.

24 (b) At least once every two years, the department shall
25 inspect a vehicle storage facility that holds a license under this
26 chapter.

27 (c) The department shall conduct additional inspections

1 based on a schedule of risk-based inspections using the following
2 criteria:

3 (1) the type and nature of the vehicle storage
4 facility;

5 (2) the inspection history of the vehicle storage
6 facility;

7 (3) any history of complaints involving the vehicle
8 storage facility; and

9 (4) any other factor determined by the commission by
10 rule.

11 (d) An inspector who discovers a violation of this chapter
12 or a rule or order of the commission or executive director shall:

13 (1) provide written notice of the violation to the
14 license holder on a form prescribed by the department; and

15 (2) file a complaint with the executive director.

16 (e) The vehicle storage facility shall pay a fee for each
17 inspection performed under Subsection (c). The commission by rule
18 shall set the amount of the fee.

19 Sec. 2303.056. PERSONNEL. The department may employ
20 personnel necessary to administer and enforce this chapter.

21 Sec. 2303.057. ADVISORY BOARD. The Towing and Storage
22 Advisory Board under Chapter 2308 shall advise the commission,
23 department, and executive director on vehicle storage matters
24 related to administering and enforcing this chapter.

25 SECTION 1.04. Sections 2303.102(a) and (b), Occupations
26 Code, are amended to read as follows:

27 (a) The executive director [~~commission~~] by rule shall

1 determine the types of information to be included in an application
2 for a license under this chapter and shall prescribe the form of the
3 application.

4 (b) The rules adopted [~~by the commission~~] under this section
5 must require the application to be made under oath and to list:

6 (1) the name and address of each partner, if the
7 applicant is a partnership;

8 (2) the name and address of the president, secretary,
9 and treasurer of the corporation, if the applicant is a
10 corporation; and

11 (3) each conviction of a felony, or of a misdemeanor
12 punishable by confinement in jail or by a fine exceeding \$200, that
13 was obtained against the applicant or a partner or officer of the
14 applicant in the three years preceding the date of application.

15 SECTION 1.05. Subtitle A, Title 14, Occupations Code, is
16 amended by adding Chapter 2308 to read as follows:

17 CHAPTER 2308. VEHICLE TOWING

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 2308.001. SHORT TITLE. This chapter may be cited as
20 the Texas Towing Act.

21 Sec. 2308.002. DEFINITIONS. In this chapter:

22 (1) "Advisory board" means the Towing and Storage
23 Advisory Board.

24 (2) "Commission" means the Texas Commission of
25 Licensing and Regulation.

26 (3) "Consent tow" means any tow of a motor vehicle
27 initiated by the owner or operator of the vehicle or by a person who

1 has possession, custody, or control of the vehicle. The term does
2 not include a tow of a motor vehicle initiated by a peace officer
3 investigating a traffic accident or a traffic incident that
4 involves the vehicle.

5 (4) "Department" means the Texas Department of
6 Licensing and Regulation.

7 (5) "Driver's license" has the meaning assigned by
8 Section 521.001, Transportation Code.

9 (6) "Nonconsent tow" means any tow of a motor vehicle
10 that is not a consent tow.

11 (7) "Parking facility" means public or private
12 property used, wholly or partly, for restricted or paid vehicle
13 parking. The term includes:

14 (A) a restricted space on a portion of an
15 otherwise unrestricted parking facility; and

16 (B) a commercial parking lot, a parking garage,
17 and a parking area serving or adjacent to a business, church,
18 school, home, apartment complex, property governed by a property
19 owners' association, or government-owned property leased to a
20 private person, including:

21 (i) a portion of the right-of-way of a
22 public roadway that is leased by a governmental entity to the
23 parking facility owner; and

24 (ii) the area between the facility's
25 property line abutting a county or municipal public roadway and the
26 center line of the roadway's drainage way or the curb of the
27 roadway, whichever is farther from the facility's property line.

1 (8) "Parking facility owner" means:

2 (A) an owner or operator of a parking facility,
3 including a lessee, employee, or agent of an owner or operator;

4 (B) a property owners' association having
5 control under a dedicatory instrument, as that term is defined in
6 Section 202.001, Property Code, over assigned or unassigned parking
7 areas; or

8 (C) a property owner having an exclusive right
9 under a dedicatory instrument, as that term is defined in Section
10 202.001, Property Code, to use a parking space.

11 (9) "Property owners' association" has the meaning
12 assigned by Section 202.001, Property Code.

13 (10) "Public roadway" means a public street, alley,
14 road, right-of-way, or other public way, including paved and
15 unpaved portions of the right-of-way.

16 (11) "Tow truck" means a motor vehicle, including a
17 wrecker, equipped with a mechanical device used to tow, winch, or
18 otherwise move another motor vehicle.

19 (12) "Towing company" means an individual,
20 association, corporation, or other legal entity that controls,
21 operates, or directs the operation of one or more tow trucks over a
22 public roadway in this state but does not include a political
23 subdivision of the state.

24 (13) "Unauthorized vehicle" means a vehicle parked,
25 stored, or located on a parking facility without the consent of the
26 parking facility owner.

27 (14) "Vehicle" means a device in, on, or by which a

1 person or property may be transported on a public roadway. The term
2 includes an operable or inoperable automobile, truck, motorcycle,
3 recreational vehicle, or trailer but does not include a device
4 moved by human power or used exclusively on a stationary rail or
5 track.

6 (15) "Vehicle storage facility" means a vehicle
7 storage facility, as defined by Section 2303.002, that is operated
8 by a person who holds a license issued under Chapter 2303 to operate
9 the facility.

10 [Sections 2308.003-2308.050 reserved for expansion]

11 SUBCHAPTER B. ADVISORY BOARD

12 Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The
13 advisory board consists of the following members appointed by the
14 presiding officer of the commission with the approval of the
15 commission:

16 (1) one representative of a towing company operating
17 in a city with a population of less than one million;

18 (2) one representative of a towing company operating
19 in a city with a population of one million or more;

20 (3) one owner of a vehicle storage facility located in
21 a city with a population of less than one million;

22 (4) one owner of a vehicle storage facility located in
23 a city with a population of one million or more;

24 (5) one parking facility owner;

25 (6) one law enforcement officer from a city with a
26 population of less than one million;

27 (7) one law enforcement officer from a city with a

1 population of one million or more; and

2 (8) two public members.

3 (b) The advisory board must include representation for each
4 classification of towing.

5 (c) An appointment to the advisory board shall be made
6 without regard to the race, color, disability, sex, religion, age,
7 or national origin of the appointee.

8 Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board
9 members serve terms of six years, with the terms of three members
10 expiring on February 1 of each odd-numbered year.

11 (b) A member may not serve more than two full consecutive
12 terms.

13 (c) If a vacancy occurs during a term, the presiding officer
14 of the commission shall appoint a replacement who meets the
15 qualifications of the vacated position to serve for the remainder
16 of the term.

17 Sec. 2308.053. PRESIDING OFFICER. The presiding officer of
18 the commission shall appoint one of the advisory board members to
19 serve as presiding officer of the advisory board for a term of one
20 year. The presiding officer of the advisory board may vote on any
21 matter before the advisory board.

22 Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.
23 Advisory board members may not receive compensation but are
24 entitled to reimbursement for actual and necessary expenses
25 incurred in performing the functions of the advisory board, subject
26 to the General Appropriations Act.

27 Sec. 2308.055. MEETINGS. The advisory board shall meet

1 twice annually and may meet at other times at the call of the
2 presiding officer of the commission.

3 Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive
4 director or commission, as appropriate, may take action as
5 necessary to administer and enforce this chapter.

6 Sec. 2308.057. RULES. (a) The executive director shall
7 adopt rules for permitting tow trucks and licensing towing
8 operators.

9 (b) The executive director by rule shall adopt standards of
10 conduct for license and permit holders under this chapter.

11 Sec. 2308.058. FEES. The commission shall establish and
12 collect reasonable and necessary fees in amounts sufficient to
13 cover the costs of administering this chapter.

14 Sec. 2308.059. PERIODIC AND RISK-BASED INSPECTIONS. (a)
15 The department may enter and inspect at any time during business
16 hours:

17 (1) the place of business of any person regulated
18 under this chapter; or

19 (2) any place in which the department has reasonable
20 cause to believe that a license or permit holder is in violation of
21 this chapter or in violation of a rule or order of the commission or
22 executive director.

23 (b) The department shall conduct additional inspections
24 based on a schedule of risk-based inspections using the following
25 criteria:

26 (1) the type and nature of the towing company or
27 operator;

- 1 (2) the inspection history;
- 2 (3) any history of complaints involving the towing
- 3 company or operator; and
- 4 (4) any other factor determined by the commission by
- 5 rule.

6 (c) An inspector who discovers a violation of this chapter

7 or of a rule or order of the commission or executive director shall:

- 8 (1) provide written notice of the violation to the
- 9 license or permit holder on a form prescribed by the department; and
- 10 (2) file a complaint with the executive director.

11 (d) The towing company shall pay a fee for each inspection

12 performed under Subsection (c). The commission shall set the

13 amount of the fee by rule.

14 Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The

15 advisory board shall provide advice and recommendations to the

16 department on technical matters relevant to the administration and

17 enforcement of this chapter, including examination content,

18 licensing standards, and continuing education requirements.

19 Sec. 2308.061. PERSONNEL. The department may employ

20 personnel necessary to administer and enforce this chapter.

21 [Sections 2308.062-2308.100 reserved for expansion]

22 SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

23 Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used

24 for consent towing or nonconsent towing on a public roadway in this

25 state unless an appropriate permit has been issued for the tow truck

26 under this subchapter.

27 Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant

1 for a permit under this subchapter must submit to the department:

2 (1) a completed application on a form prescribed by
3 the executive director;

4 (2) evidence that the applicant is in compliance with
5 the drug testing requirements of 49 C.F.R. Part 382, as those
6 requirements exist on September 1, 2007;

7 (3) evidence of insurance or financial responsibility
8 required under this subchapter;

9 (4) the required fees; and

10 (5) any other information required by the executive
11 director.

12 (b) The department shall investigate any criminal
13 conviction of an applicant and may obtain any criminal history
14 record information permitted by law.

15 Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING
16 PERMIT. (a) An incident management towing permit is required for a
17 tow truck used to perform any nonconsent tow initiated by a peace
18 officer, including a tow authorized under Section 545.3051,
19 Transportation Code.

20 (b) To be eligible for an incident management towing permit,
21 an applicant must submit evidence that:

22 (1) the tow truck is equipped to tow light-duty or
23 heavy-duty vehicles according to the manufacturer's towing
24 guidelines;

25 (2) the applicant has at least \$500,000 of liability
26 insurance for the tow truck; and

27 (3) the applicant has at least \$50,000 of cargo

1 insurance for the tow truck.

2 (c) A tow truck permitted under this section may also be
3 used for private property towing and consent towing.

4 (d) When a tow truck is used for a nonconsent tow initiated
5 by a peace officer under Section 545.3051, Transportation Code, the
6 permit holder is an agent of law enforcement and is subject to
7 Section 545.3051(e), Transportation Code.

8 Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING
9 PERMIT. (a) A private property towing permit is required for a tow
10 truck used to perform a nonconsent tow authorized by a parking
11 facility owner under this chapter.

12 (b) To be eligible for a private property towing permit, an
13 applicant must submit evidence that:

14 (1) the tow truck is equipped to tow light-duty or
15 heavy-duty vehicles according to the manufacturer's towing
16 guidelines;

17 (2) the applicant has at least \$300,000 of liability
18 insurance for the tow truck; and

19 (3) the applicant has at least \$50,000 of cargo
20 insurance for the tow truck.

21 (c) A tow truck permitted under this section may also be
22 used for consent towing but not for incident management towing.

23 Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a)
24 A consent towing permit is required for a tow truck used to perform
25 a consent tow authorized by the vehicle owner.

26 (b) To be eligible for a consent towing permit, an applicant
27 must submit evidence that:

1 (1) the tow truck is equipped to tow light-duty or
2 heavy-duty vehicles according to the manufacturer's towing
3 guidelines; and

4 (2) the applicant has at least \$300,000 of liability
5 insurance for the tow truck.

6 (c) A tow truck permitted under this section may not be used
7 for nonconsent towing, including incident management towing and
8 private property towing.

9 Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT.

10 (a) The department shall issue a permit under this subchapter to an
11 applicant who meets the requirements for a permit. The department
12 may deny an application if the applicant has had a permit revoked
13 under this chapter.

14 (b) The department shall issue a certificate containing a
15 single permit number for each tow truck, regardless of whether the
16 permit holder holds more than one permit.

17 Sec. 2308.107. CONDITIONAL ACCEPTANCE. (a) The department
18 may conditionally accept an incomplete application for a permit if
19 the towing company complies with Section 2308.112.

20 (b) The department shall notify an applicant that an
21 application is incomplete and inform the applicant of the
22 information required for completion. If the applicant fails to
23 provide the information on or before the 45th day after the date the
24 department provides the notice, the application is considered
25 withdrawn.

26 Sec. 2308.108. ADDITIONAL VEHICLES AND FEES. (a) Each tow
27 truck requires a separate permit.

1 (b) A permit holder is not required to pay a permit fee for a
2 tow truck that is replacing another tow truck that has a valid
3 permit.

4 Sec. 2308.109. PERMIT RENEWAL. (a) A permit issued under
5 this chapter is valid for one year. The department may adopt a
6 system under which permits expire at different times during the
7 year.

8 (b) The department shall notify the permit holder at least
9 30 days before the date a permit expires. The notice must be in
10 writing and sent to the permit holder's last known address
11 according to the records of the department.

12 (c) A permit holder may renew a permit under this chapter
13 by:

14 (1) paying a fee for each tow truck; and

15 (2) providing to the department evidence of continuing
16 insurance or financial responsibility in an amount required by this
17 chapter.

18 Sec. 2308.110. CAB CARDS. (a) The department shall issue a
19 cab card for each tow truck issued a permit. The cab card must:

20 (1) show the permit number of the certificate issued
21 under Section 2308.106(b);

22 (2) show the type of permit issued;

23 (3) show the vehicle unit number;

24 (4) show the vehicle identification number; and

25 (5) contain a statement that the vehicle has been
26 issued a permit under this subchapter.

27 (b) The department shall issue a cab card when the

1 department issues or renews a permit under this subchapter.

2 (c) A permit holder must keep the cab card in the cab of each
3 permitted tow truck.

4 (d) The department may order a permit holder to surrender a
5 cab card if the permit is suspended or revoked under this chapter.

6 (e) If the department determines that the cab card system
7 described by Subsections (a)-(c) is not an efficient means of
8 enforcing this subchapter, the executive director by rule may adopt
9 an alternative method that is accessible by law enforcement
10 personnel in the field and provides for the enforcement of the
11 permit requirements of this subchapter.

12 (f) A cab card or a permit issued under the alternative
13 method described in Subsection (e) must be valid for the same
14 duration as a certificate issued under Section 2308.106.

15 Sec. 2308.111. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A
16 permit holder shall display on each permitted tow truck:

- 17 (1) the permit holder's name;
18 (2) the permit holder's telephone number;
19 (3) the city and state where the permit holder is
20 located; and
21 (4) the permit number for the tow truck.

22 (b) The information required to be displayed must be:

- 23 (1) printed in letters and numbers that are at least
24 two inches high and in a color that contrasts with the color of the
25 background surface; and

- 26 (2) permanently affixed in conspicuous places on both
27 sides of the tow truck.

1 Sec. 2308.112. FINANCIAL RESPONSIBILITY. (a) A permit
2 holder shall maintain liability insurance for each tow truck
3 according to the requirements under this subchapter.

4 (b) Unless state law permits a tow truck to be self-insured,
5 any insurance required for a tow truck must be obtained from:

6 (1) an insurer authorized to do business in this state
7 whose aggregate net risk, after reinsurance, under any one
8 insurance policy is not in excess of 10 percent of the insurer's
9 policyholders' surplus, and credit for such reinsurance is
10 permitted by law; or

11 (2) an insurer that meets the eligibility requirements
12 of a surplus lines insurer pursuant to Chapter 981, Insurance Code.
13 Notwithstanding any other provision in law, an insurer in
14 compliance with this subsection shall be deemed to be in compliance
15 with any rating or financial criteria established for motor
16 carriers by any political subdivision of the state.

17 (c) A tow truck may comply through self-insurance if the
18 towing company demonstrates to the department that the company can
19 satisfy its obligations for liability for bodily injury or property
20 damage. In the interest of public safety, the executive director by
21 rule shall provide for a responsible system of self-insurance for a
22 tow truck.

23 (d) An applicant or permit holder must file with the
24 department evidence of insurance as required by this subchapter or
25 evidence of financial responsibility in a form prescribed by the
26 department. The form must be filed:

27 (1) at the time of the initial application;

1 (2) at the time of a subsequent application if the
2 applicant was required to be continuously permitted and failed to
3 maintain continuous permitting;

4 (3) at the time a permit holder changes insurers; and

5 (4) at the time a permit holder changes ownership, as
6 determined by rules adopted by the executive director.

7 (e) A permit holder shall keep evidence of insurance in a
8 form approved by the department in the cab of each vehicle requiring
9 registration the carrier operates.

10 [Sections 2308.113-2308.150 reserved for expansion]

11 SUBCHAPTER D. LICENSE REQUIREMENTS

12 Sec. 2308.151. LICENSE REQUIRED. A person may not perform
13 towing operations unless the person holds an appropriate license
14 under this subchapter.

15 Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.

16 (a) An applicant for a license under this subchapter must submit to
17 the department:

18 (1) a completed application on a form prescribed by
19 the executive director;

20 (2) the required fees; and

21 (3) any other information required by executive
22 director rule.

23 Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S
24 LICENSE. (a) An incident management towing operator's license is
25 required to operate a tow truck permitted under Section 2308.103.

26 (b) An applicant for an incident management towing
27 operator's license must:

1 (1) be a licensed Texas driver;

2 (2) be certified by the National Drivers Certification
3 Program of the Towing and Recovery Association of America or
4 another certification program approved by the department;

5 (3) have completed a truck and bus driver/commercial
6 vehicle operation course approved by the department; and

7 (4) pass an examination.

8 Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

9 (a) A private property towing operator's license is required to
10 operate a tow truck permitted under Section 2308.104.

11 (b) An applicant for a private property towing operator's
12 license must:

13 (1) be a licensed Texas driver;

14 (2) be certified by the National Drivers Certification
15 Program of the Towing and Recovery Association of America or
16 another certification program approved by the department; and

17 (3) pass an examination.

18 Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A
19 consent towing operator's license is required to operate a tow
20 truck permitted under Section 2308.105.

21 (b) An applicant for a consent towing operator's license
22 must:

23 (1) be a licensed Texas driver; and

24 (2) pass an examination.

25 Sec. 2308.156. EXAMINATIONS. (a) Examinations required by
26 this subchapter shall be conducted at locations throughout the
27 state.

1 (b) The department may accept, develop, or contract for the
2 examinations required by this subchapter, including the
3 administration of the examinations. Each examination must test the
4 knowledge of the applicant about equipment and procedures used in
5 the types of towing authorized by the applicable license.

6 (c) The executive director shall determine uniform
7 standards for acceptable performance on an examination.

8 Sec. 2308.157. EXAMINATION RESULTS. (a) The department
9 shall notify an applicant of the results of an examination not later
10 than the 30th day after the date the examination is administered.
11 If an examination is graded or reviewed by a national testing
12 service, the department shall notify an applicant of the result of
13 the examination not later than the 14th day after the date on which
14 the department receives the results from the testing service.

15 (b) If the notice of the examination results will be delayed
16 for more than 60 days after the examination date, the department
17 shall notify each applicant of the reason for the delay before the
18 60th day after the examination date.

19 (c) If requested in writing by a person who fails an
20 examination administered under this chapter, the department shall
21 provide to the person an analysis of the person's performance on the
22 examination.

23 Sec. 2308.158. LICENSE ISSUANCE; NONTRANSFERABILITY. (a)
24 Not later than the 30th day after the date on which the department
25 determines that an applicant has passed an examination required
26 under this subchapter, the executive director shall issue a license
27 to the applicant if the applicant has paid the fees and complied

1 with the other requirements of this subchapter.

2 (b) A license issued by the executive director is valid
3 throughout this state and is not transferable.

4 Sec. 2308.159. LICENSE RENEWAL. (a) Except as provided by
5 Subsection (b), a license expires annually on December 31 and may be
6 renewed on payment of the required renewal fee.

7 (b) The executive director by rule may adopt a system under
8 which licenses expire on various dates during the year. For the
9 year in which the license expiration date is changed, renewal fees
10 payable on or before December 31 shall be prorated on a monthly
11 basis so that each license holder pays only that portion of the
12 renewal fee that is applicable to the number of months during which
13 the license is valid. On renewal of the license on the new
14 expiration date, the total renewal fee is due.

15 (c) The department shall notify a license holder in writing
16 at the license holder's last known mailing address not later than
17 the 30th day before the date the license holder's license expires.
18 A person may renew an unexpired license by paying the renewal fee to
19 the department before the license expiration date.

20 (d) A person whose license has been expired for 90 days or
21 less may renew the license by paying to the department the required
22 renewal fee and a late fee in an amount equal to half of the license
23 fee. A person whose license has been expired for more than 90 days
24 but less than two years may renew the license by paying to the
25 department all unpaid renewal fees and a late fee in an amount equal
26 to the license fee. A person whose license has been expired for
27 more than two years may not renew the license. The person may

1 obtain a new license by complying with the requirements and
2 procedures for obtaining an original license.

3 Sec. 2308.160. CONTINUING EDUCATION. To renew an incident
4 management towing operators license, the license holder must
5 complete a professional development-truck and bus
6 driver/commercial vehicle operation course approved by the
7 department.

8 ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

9 SECTION 2.01. Sections 643.201 and 643.203 through 643.208,
10 Transportation Code, are transferred to Chapter 2308, Occupations
11 Code, redesignated as Subchapter E, Chapter 2308, Occupations Code,
12 renumbered as Sections 2308.201 through 2308.207, Occupations
13 Code, and amended to read as follows:

14 SUBCHAPTER E. LOCAL REGULATION OF TOWING

15 Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL
16 SUBDIVISIONS. (a) In addition to the registration requirements of
17 Subchapter B, Chapter 643, Transportation Code, a political
18 subdivision of this state may regulate the operation of a tow truck
19 to the extent allowed by federal law, except that a political
20 subdivision may not issue a more restrictive regulation for the use
21 of lighting equipment on a tow truck than is imposed by Title 7,
22 Transportation Code [~~this title~~].

23 (b) A political subdivision may not require the
24 registration of a tow truck that performs consent tows in the
25 political subdivision unless the owner of the tow truck has a place
26 of business in the territory of the political subdivision.

27 (c) A political subdivision may require the registration of

1 a tow truck that performs a nonconsent tow in the political
2 subdivision, regardless of whether the owner of the tow truck has a
3 place of business in the territory of the political subdivision.

4 (d) A political subdivision may not require a person who
5 holds a driver's license or commercial driver's license to obtain a
6 license or permit for operating a tow truck unless the person
7 performs nonconsent tows in the territory of the political
8 subdivision. A fee charged for a license or permit may not exceed
9 \$15.

10 [~~(c) In this section:~~

11 [~~(1) "Commercial driver's license" has the meaning~~
12 ~~assigned by Section 522.003.~~

13 [~~(2) "Consent tow" means any tow of a motor vehicle~~
14 ~~initiated by the owner or operator of the vehicle or by a person who~~
15 ~~has possession, custody, or control of the vehicle. The term does~~
16 ~~not include a tow of a motor vehicle initiated by a peace officer~~
17 ~~investigating a traffic accident or a traffic incident that~~
18 ~~involves the vehicle.~~

19 [~~(3) "Driver's license" has the meaning assigned by~~
20 ~~Section 521.001.~~

21 [~~(4) "Nonconsent tow" means any tow of a motor vehicle~~
22 ~~that is not a consent tow.]~~

23 Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL
24 SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a
25 political subdivision may regulate the fees that may be charged or
26 collected in connection with a nonconsent tow originating in the
27 territory of the political subdivision.

1 Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The
2 governing body of a political subdivision that regulates nonconsent
3 tow fees shall establish procedures by which a towing company may
4 request that a towing fee study be performed.

5 (b) The governing body of the political subdivision shall
6 establish or amend the allowable fees for nonconsent tows at
7 amounts that represent the fair value of the services of a towing
8 company and are reasonably related to any financial or accounting
9 information provided to the governing body.

10 Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER
11 AREAS. (a) In an area in which no political subdivision regulates
12 the fees that may be charged or collected for a nonconsent tow from
13 private property, a towing company may charge and collect a fee for
14 the tow of a motor vehicle from private property in an amount not to
15 exceed an amount equal to 150 percent of the fee that the towing
16 company would have been authorized to charge for a nonconsent tow
17 made at the request of a peace officer of the political subdivision
18 in which the private property is located.

19 (b) A towing company may charge and collect a fee for the tow
20 of a vehicle, with a gross vehicle weight rating in excess of 26,000
21 pounds, from private property in an amount not to exceed an amount
22 equal to 125 percent of the fee that the towing company would have
23 been authorized to charge for a nonconsent tow made at the request
24 of a peace officer of the political subdivision in which the private
25 property is located.

26 Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A
27 towing company that makes a nonconsent tow shall tow the vehicle to

1 a vehicle storage facility that is operated by a person who holds a
2 license to operate the facility under Chapter 2303, [~~Occupations~~
3 ~~Code,~~] unless the towing company agrees to take the vehicle to a
4 location designated by the vehicle's owner.

5 (b) A storage or notification fee imposed in connection with
6 a motor vehicle towed to a vehicle storage facility is governed by
7 Chapter 2303[~~, Occupations Code~~].

8 (c) Except as provided by this chapter, Article 18.23, Code
9 of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee
10 may not be charged or collected without the prior written consent of
11 the vehicle owner or operator.

12 Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before
13 January 31 of each year, a towing company shall file with the
14 department a schedule showing each towing fee that the towing
15 company charges or collects in connection with a nonconsent tow.

16 (b) If a political subdivision begins regulating nonconsent
17 tow fees, the fees shall be reported to the department by the towing
18 company before the 30th day after the regulation goes into effect.

19 (c) Any changes in nonconsent tow fees regulated by a
20 political subdivision shall be reported to the department by the
21 towing company before the 30th day after the effective date of the
22 change.

23 (d) The department shall make towing fee schedules
24 available on the department's Internet website. The department
25 shall make no determination as to the reasonableness of a towing fee
26 schedule.

27 Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. All towing and

1 storage fees shall be posted at the licensed vehicle storage
2 facility to which the motor vehicle has been delivered and shall be
3 posted in view of the person who claims the vehicle.

4 SECTION 2.02. Section 684.101, Transportation Code, is
5 transferred to Subchapter E, Chapter 2308, Occupations Code, and
6 renumbered as Section 2308.208, Occupations Code, to read as
7 follows:

8 Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING
9 UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that
10 is identical to this chapter or that imposes additional
11 requirements that exceed the minimum standards of this chapter but
12 may not adopt an ordinance conflicting with this chapter.

13 SECTION 2.03. Sections 684.011, 684.012, 684.0125,
14 684.013, 684.014, and 684.015, Transportation Code, are
15 transferred to Chapter 2308, Occupations Code, redesignated as
16 Subchapter F, Chapter 2308, Transportation Code, renumbered as
17 Sections 2308.251 through 2308.256, Occupations Code, and amended
18 to read as follows:

19 SUBCHAPTER F. UNAUTHORIZED VEHICLES

20 Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED
21 VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle
22 may not leave unattended on a parking facility a vehicle that:

23 (1) is in or obstructs a vehicular traffic aisle,
24 entry, or exit of the parking facility;

25 (2) prevents a vehicle from exiting a parking space in
26 the facility;

27 (3) is in or obstructs a fire lane marked according to

1 Subsection (c); or

2 (4) does not display the special license plates issued
3 under Section 504.201, Transportation Code, or the disabled parking
4 placard issued under Chapter 681, Transportation Code, for a
5 vehicle transporting a disabled person and is in a parking space
6 that is designated for the exclusive use of a vehicle transporting a
7 disabled person.

8 (b) Subsection (a) does not apply to an emergency vehicle
9 that is owned by, or the operation of which is authorized by, a
10 governmental entity.

11 (c) If a government regulation governing the marking of a
12 fire lane applies to a parking facility, a fire lane in the facility
13 must be marked as provided by the regulation. If a government
14 regulation on the marking of a fire lane does not apply to the
15 parking facility, all curbs of fire lanes must be painted red and be
16 conspicuously and legibly marked with the warning "FIRE LANE--TOW
17 AWAY ZONE" in white letters at least three inches tall, at intervals
18 not exceeding 50 feet.

19 Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF
20 UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without
21 the consent of the owner or operator of an unauthorized vehicle,
22 cause the vehicle and any property on or in the vehicle to be
23 removed and stored at a vehicle storage facility at the vehicle
24 owner's or operator's expense if:

25 (1) signs that comply with Subchapter G [~~E~~]
26 prohibiting unauthorized vehicles are located on the parking
27 facility at the time of towing and for the preceding 24 hours and

1 remain installed at the time of towing;

2 (2) the owner or operator of the vehicle has received
3 actual notice from the parking facility owner that the vehicle will
4 be towed at the vehicle owner's or operator's expense if it is in or
5 not removed from an unauthorized space;

6 (3) the parking facility owner gives notice to the
7 owner or operator of the vehicle under Subsection (b); or

8 (4) the vehicle is:

9 (A) left in violation of Section 2308.251
10 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

11 (B) in or obstructing a portion of a paved
12 driveway or abutting public roadway used for entering or exiting
13 the facility and the removal is approved by a peace officer.

14 (b) A parking facility owner is considered to have given
15 notice under Subsection (a)(3) if:

16 (1) a conspicuous notice has been attached to the
17 vehicle's front windshield or, if the vehicle has no front
18 windshield, to a conspicuous part of the vehicle stating:

19 (A) that the vehicle is in a parking space in
20 which the vehicle is not authorized to be parked;

21 (B) a description of all other unauthorized areas
22 in the parking facility;

23 (C) that the vehicle will be towed at the expense
24 of the owner or operator of the vehicle if it remains in an
25 unauthorized area of the parking facility; and

26 (D) a telephone number that is answered 24 hours
27 a day to enable the owner or operator of the vehicle to locate the

1 vehicle; and

2 (2) a notice is mailed after the notice is attached to
3 the vehicle as provided by Subdivision (1) to the owner of the
4 vehicle by certified mail, return receipt requested, to the last
5 address shown for the owner according to the vehicle registration
6 records of the Texas Department of Transportation, or if the
7 vehicle is registered in another state, the appropriate agency of
8 that state.

9 (c) The notice under Subsection (b)(2) must:

10 (1) state that the vehicle is in a space in which the
11 vehicle is not authorized to park;

12 (2) describe all other unauthorized areas in the
13 parking facility;

14 (3) contain a warning that the unauthorized vehicle
15 will be towed at the expense of the owner or operator of the vehicle
16 if it is not removed from the parking facility before the 15th day
17 after the postmark date of the notice; and

18 (4) state a telephone number that is answered 24 hours
19 a day to enable the owner or operator to locate the vehicle.

20 (d) The mailing of a notice under Subsection (b)(2) is not
21 required if after the notice is attached under Subsection (b)(1)
22 the owner or operator of the vehicle leaves the vehicle in another
23 location where parking is unauthorized for the vehicle according to
24 the notice.

25 Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING
26 FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

27 (a) This section applies only to a parking facility serving or

1 adjacent to an apartment complex consisting of one or more
2 residential apartment units and any adjacent real property serving
3 the apartment complex.

4 (b) The owner or operator of a vehicle may not leave
5 unattended on a parking facility a vehicle that:

6 (1) obstructs a gate that is designed or intended for
7 the use of pedestrians or vehicles;

8 (2) obstructs pedestrian or vehicular access to an
9 area that is used for the placement of a garbage or refuse
10 receptacle used in common by residents of the apartment complex;

11 (3) is in or obstructs a restricted parking area or
12 parking space designated under Subchapter G [G], including a space
13 designated for the use of employees or maintenance personnel of the
14 parking facility or apartment complex;

15 (4) is in a tow away zone, other than a fire lane
16 covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly
17 painted and is conspicuously and legibly marked with the warning
18 "TOW AWAY ZONE" in contrasting letters at least three inches tall;

19 (5) is a semitrailer, trailer, or truck-tractor, as
20 defined by Chapter 502, Transportation Code, unless the owner or
21 operator of the vehicle is permitted under the terms of a rental or
22 lease agreement with the apartment complex to leave the unattended
23 vehicle on the parking facility; or

24 (6) is leaking a fluid that presents a hazard or threat
25 to persons or property.

26 (c) A parking facility owner may not have an emergency
27 vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from

1 the parking facility.

2 (d) Except as provided by a contract described by Subsection
3 (e), a parking facility owner may not have a vehicle removed from
4 the parking facility merely because the vehicle does not display:

5 (1) an unexpired license plate or registration
6 insignia issued for the vehicle under Chapter 502, Transportation
7 Code, or the vehicle registration law of another state or country;
8 or

9 (2) a valid vehicle inspection certificate issued
10 under Chapter 548, Transportation Code, or the vehicle inspection
11 law of another state or country.

12 (e) A contract provision providing for the removal from a
13 parking facility of a vehicle that does not display an unexpired
14 license plate or registration insignia or a valid inspection
15 certificate is valid only if the provision requires the owner or
16 operator of the vehicle to be given at least 10 days' written notice
17 that the vehicle will be towed from the facility at the vehicle
18 owner's or operator's expense if it is not removed from the parking
19 facility. The notice must be:

20 (1) delivered in person to the owner or operator of the
21 vehicle; or

22 (2) sent by certified mail, return receipt requested,
23 to that owner or operator.

24 (f) This section may not be construed:

25 (1) to authorize the owner or operator of a vehicle to
26 leave an unattended vehicle on property that is not designed or
27 intended for the parking of vehicles; or

1 (2) to limit or restrict the enforcement of Chapter
2 683, Transportation Code, the abandoned motor vehicle law.

3 (g) A provision of an apartment lease or rental agreement
4 entered into or renewed on or after January 1, 2004, that is in
5 conflict or inconsistent with this section is void and may not be
6 enforced.

7 Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY
8 OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking
9 facility owner may not have an unauthorized vehicle removed from
10 the facility except:

11 (1) as provided by this chapter or a municipal
12 ordinance that complies with Section 2308.208 [~~684.101~~]; or

13 (2) under the direction of a peace officer or the owner
14 or operator of the vehicle.

15 Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO
16 REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that
17 is insured as provided by Subsection (c) may, without the consent of
18 an owner or operator of an unauthorized vehicle, remove and store
19 the vehicle at a vehicle storage facility at the expense of the
20 owner or operator of the vehicle if:

21 (1) the towing company has received written
22 verification from the parking facility owner that:

23 (A) the parking facility owner has installed the
24 signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

25 (B) the owner or operator received notice under
26 Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility
27 owner gave notice complying with Section 2308.252(a)(3)

1 ~~[684.012(a)(3)]~~; or

2 (2) the vehicle is:

3 (A) left in violation of Section 2308.251
4 ~~[684.011]~~; or

5 (B) in or obstructing a portion of a paved
6 driveway or abutting public roadway used for entering or exiting
7 the facility and the removal is approved by a peace officer.

8 (b) A towing company may not remove an unauthorized vehicle
9 except under:

10 (1) this chapter;

11 (2) a municipal ordinance that complies with Section
12 2308.208 ~~[684.101]~~; or

13 (3) the direction of a peace officer or the owner or
14 operator of the vehicle.

15 (c) Only a towing company that is insured against liability
16 for property damage incurred in towing a vehicle may remove and
17 store an unauthorized vehicle under this section.

18 (d) A towing company may remove and store a vehicle under
19 Subsection (a) only if the parking facility owner:

20 (1) requests that the towing company remove and store
21 the specific vehicle; or

22 (2) has a standing written agreement with the towing
23 company to enforce parking restrictions in the parking facility
24 from which the vehicle will be removed.

25 Sec. 2308.256 ~~[684.015]~~. VEHICLE STORAGE FACILITY'S DUTY
26 TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle
27 storage facility accepting a vehicle that is towed under this

1 chapter shall within two hours after receiving the vehicle report
2 to the police department of the municipality in which the parking
3 facility is located, or, if the parking facility is not located in a
4 municipality having a police department, to the sheriff of the
5 county in which the parking facility is located:

- 6 (1) a general description of the vehicle;
- 7 (2) the state and number of the vehicle's license
8 plate, if any;
- 9 (3) the vehicle identification number of the vehicle,
10 if it can be ascertained;
- 11 (4) the location from which the vehicle was towed; and
- 12 (5) the name and location of the vehicle storage
13 facility where the vehicle is being stored.

14 (b) The report required by this section must be made by
15 telephone or delivered personally or by facsimile.

16 SECTION 2.04. Subchapter C, Chapter 684, Transportation
17 Code, is transferred to Chapter 2308, Occupations Code,
18 redesignated as Subchapter G, Chapter 2308, Occupations Code,
19 renumbered as Sections 2308.301 through 2308.305, Occupations
20 Code, and amended to read as follows:

21 SUBCHAPTER G [C]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND
22 DESIGNATING RESTRICTED AREAS

23 Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN
24 PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by
25 Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305
26 [~~684.035~~] an unauthorized vehicle may not be towed under Section
27 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting

1 unauthorized vehicles on a parking facility is:

2 (1) facing and conspicuously visible to the driver of
3 a vehicle that enters the facility;

4 (2) located:

5 (A) on the right or left side of each driveway or
6 curb-cut through which a vehicle can enter the facility, including
7 an entry from an alley abutting the facility; or

8 (B) at intervals along the entrance so that no
9 entrance is farther than 25 feet from a sign if:

10 (i) curbs, access barriers, landscaping, or
11 driveways do not establish definite vehicle entrances onto a
12 parking facility from a public roadway other than an alley; and

13 (ii) the width of an entrance exceeds 35
14 feet;

15 (3) permanently mounted on a pole, post, permanent
16 wall, or permanent barrier;

17 (4) installed on the parking facility; and

18 (5) installed so that the bottom edge of the sign is no
19 lower than five feet and no higher than eight feet above ground
20 level.

21 (b) Except as provided by Section 2308.305 [~~684.035~~], an
22 unauthorized vehicle may be towed under Section 2308.252(a)(1)
23 [~~684.012(a)(1)~~] only if each sign prohibiting unauthorized
24 vehicles:

25 (1) is made of weather-resistant material;

26 (2) is at least 18 inches wide and 24 inches tall;

27 (3) contains the international symbol for towing

1 vehicles;

2 (4) contains a statement describing who may park in
3 the parking facility and prohibiting all others;

4 (5) bears the words "Unauthorized Vehicles Will Be
5 Towed at Owner's or Operator's Expense";

6 (6) contains a statement of the days and hours of
7 towing enforcement; and

8 (7) contains a number, including the area code, of a
9 telephone that is answered 24 hours a day to enable an owner or
10 operator of a vehicle to locate the vehicle.

11 Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING
12 HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305
13 [~~684.035~~], each sign required by this chapter must comply with the
14 color, layout, and lettering height requirements of this section.

15 (b) A bright red international towing symbol, which is a
16 solid silhouette of a tow truck towing a vehicle on a generally
17 rectangular white background, at least four inches in height, must
18 be on the uppermost portion of a sign or on a separate sign placed
19 immediately above the sign.

20 (c) The portion of the sign immediately below the
21 international towing symbol must contain the words "Towing
22 Enforced" or the information provided by Section 2308.301(b)(4)
23 [~~684.031(b)(4)~~] in lettering at least two inches in height. The
24 lettering on this portion of the sign must consist of white letters
25 on a bright red background.

26 (d) Except as provided by Subsection (e), the next lower
27 portion of the sign must contain the remaining information required

1 by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters
2 at least one inch in height on a white background.

3 (e) The bottommost portion of the sign must contain the
4 telephone number required by Section 2308.301(b) [~~684.031(b)~~], in
5 lettering at least one inch in height and may, if the facility owner
6 chooses or if an applicable municipal ordinance requires, include
7 the name and address of the storage facility to which an
8 unauthorized vehicle will be removed. The lettering on this
9 portion of the sign must consist of white letters on a bright red
10 background.

11 Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING
12 TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign
13 described by Sections 2307.301 [~~684.031~~] and 2308.302 [~~684.032~~],
14 the owner of a vehicle that is towed from the facility under this
15 chapter must be able to locate the vehicle by calling the telephone
16 number on the sign.

17 Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING
18 SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking
19 facility owner may designate one or more spaces as restricted
20 parking spaces on a portion of an otherwise unrestricted parking
21 facility. Instead of installing a sign at each entrance to the
22 parking facility as provided by Section 2308.301(a)(2)
23 [~~684.031(a)(2)~~], an owner may place a sign that prohibits
24 unauthorized vehicles from parking in designated spaces and that
25 otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302
26 [~~684.032~~]:

27 (1) at the right or left side of each entrance to a

1 designated area or group of parking spaces located on the
2 restricted portion of the parking facility; or

3 (2) at the end of a restricted parking space so that
4 the sign, the top of which must not be higher than seven feet above
5 the ground, is in front of a vehicle that is parked in the space and
6 the rear of which is at the entrance of the space.

7 Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS
8 IN RESTRICTED AREA. (a) A parking facility owner who complies with
9 Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose
10 further specific parking restrictions in an area to which the signs
11 apply for individual spaces by installing or painting a
12 weather-resistant sign or notice on a curb, pole, post, permanent
13 wall, or permanent barrier so that the sign is in front of a vehicle
14 that is parked in the space and the rear of which is at the entrance
15 of the space.

16 (b) The top of the sign or notice may not be higher than
17 seven feet above the ground.

18 (c) The sign or notice must include an indication that the
19 space is reserved for a particular unit number, person, or type of
20 person.

21 (d) The letters on the sign or notice must be at least two
22 inches in height and must contrast to the color of the curb, wall,
23 or barrier so they can be read during the day and at night. The
24 letters are not required to be illuminated or made of reflective
25 material.

26 SECTION 2.05. Subchapter D, Chapter 684, Transportation
27 Code, is transferred to Chapter 2308, Occupations Code,

1 redesignated as Subchapter H, Chapter 2308, Occupations Code,
2 renumbered as Sections 2308.351 through 2308.354, Occupations
3 Code, and amended to read as follows:

4 SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY
5 AREAS

6 Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE
7 FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a
8 parking facility owner or towing company may remove an unauthorized
9 vehicle parked in a leased area described by Section
10 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing
11 company gives notice under Section 2308.252(a)(1), (2), or (3)
12 [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this
13 chapter.

14 Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE
15 FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless
16 prohibited by a municipal ordinance, a parking facility owner or
17 towing company may remove an unauthorized vehicle any part of which
18 is in an area described by Section 2308.002(7)(B)(ii)
19 [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2)
20 or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing
21 company has otherwise complied with this chapter.

22 Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL
23 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.

24 (a) A governmental entity that has jurisdiction over a public
25 roadway and that has posted one or more signs in the right-of-way
26 stating that parking is prohibited in the right-of-way may:

27 (1) remove or contract with a towing company to remove

1 an unauthorized vehicle parked in the right-of-way of the public
2 roadway; or

3 (2) grant written permission to an abutting parking
4 facility owner to:

5 (A) post one or more "No parking in R.O.W." signs
6 along a common property line of the facility and the roadway; and

7 (B) remove vehicles from the right-of-way of the
8 public roadway under this chapter.

9 (b) A sign under Subsection (a)(2) must:

10 (1) state that a vehicle parked in the right-of-way
11 may be towed at the expense of the owner or operator of the vehicle;

12 (2) be placed facing the public roadway:

13 (A) on the parking facility owner's property not
14 more than two feet from the common boundary line; and

15 (B) at intervals so that no point in the boundary
16 line is less than 25 feet from a sign posted under this subsection;
17 and

18 (3) in all other respects comply with Subchapter G
19 [~~E~~].

20 (c) After signs have been posted under Subsection (b), the
21 parking facility owner or a towing company may remove an
22 unauthorized vehicle from the right-of-way subject to the
23 governmental entity's written permission given under Subsection
24 (a)(2).

25 Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE
26 FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality
27 regulating the parking of vehicles in the municipality, to aid in

1 the enforcement of the ordinance, an employee designated by the
2 municipality may be authorized to:

3 (1) immobilize a vehicle parked in the municipality;
4 and

5 (2) remove an immobilized vehicle from a public
6 roadway in the municipality.

7 (b) A parking facility owner or towing company may not
8 remove a vehicle from a public roadway except under:

9 (1) this chapter or a municipal ordinance that
10 complies with Section 2308.208 [~~684.101~~]; or

11 (2) the direction of a peace officer or the owner or
12 operator of the vehicle.

13 SECTION 2.06. Subchapter E, Chapter 684, Transportation
14 Code, is transferred to Chapter 2308, Occupations Code,
15 redesignated as Subchapter I, Chapter 2308, Occupations Code, and
16 renumbered as Sections 2308.401 through 2308.407, Occupations
17 Code, to read as follows:

18 SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING
19 FACILITY OWNERS

20 Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED
21 FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking
22 facility owner may not directly or indirectly accept anything of
23 value from a towing company in connection with the removal of a
24 vehicle from a parking facility.

25 (b) A parking facility owner may not have a direct or
26 indirect monetary interest in a towing company that for
27 compensation removes unauthorized vehicles from a parking facility

1 in which the parking facility owner has an interest.

2 Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM
3 FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing
4 company may not directly or indirectly give anything of value to a
5 parking facility owner in connection with the removal of a vehicle
6 from a parking facility.

7 (b) A towing company may not have a direct or indirect
8 monetary interest in a parking facility from which the towing
9 company for compensation removes unauthorized vehicles.

10 Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING
11 FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A
12 parking facility owner who causes the removal of an unauthorized
13 vehicle is not liable for damages arising from the removal or
14 storage of the vehicle if the vehicle:

15 (1) was removed in compliance with this chapter; and

16 (2) is:

17 (A) removed by a towing company insured against
18 liability for property damage incurred in towing a vehicle; and

19 (B) stored by a vehicle storage facility insured
20 against liability for property damage incurred in storing a
21 vehicle.

22 Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY
23 OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing
24 company or parking facility owner who violates this chapter is
25 liable to the owner or operator of the vehicle that is the subject
26 of the violation for:

27 (1) damages arising from the removal or storage of the

1 vehicle; and

2 (2) towing or storage fees assessed in connection with
3 the vehicle's removal or storage.

4 (b) A vehicle's owner or operator is not required to prove
5 negligence of a parking facility owner or towing company to recover
6 under Subsection (a).

7 (c) A towing company or parking facility owner who
8 intentionally, knowingly, or recklessly violates this chapter is
9 liable to the owner or operator of the vehicle that is the subject
10 of the violation for \$300 plus three times the amount of fees
11 assessed in the vehicle's removal, towing, or storage.

12 (d) In a suit brought under this chapter, the prevailing
13 party is entitled to recover reasonable attorney's fees.

14 Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A
15 violation of this chapter is a misdemeanor punishable by a fine of
16 not less than \$500 or more than \$1,500.

17 Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION.
18 A violation of this chapter may be enjoined under Subchapter E,
19 Chapter 17, Business & Commerce Code.

20 Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT
21 VARIATIONS. A minor variation of a required or minimum height of a
22 sign or lettering is not a violation of this chapter.

23 SECTION 2.07. Sections 685.002 through 685.010,
24 Transportation Code, are transferred to Chapter 2308, Occupations
25 Code, redesignated as Subchapter J, Chapter 2308, Occupations Code,
26 renumbered as Sections 2308.451 through 2308.459, Occupations
27 Code, and amended to read as follows:

1 SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

2 Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND
3 STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the
4 court finds that a person or law enforcement agency authorized,
5 with probable cause, the removal and storage in a vehicle storage
6 facility of a vehicle, the person who requested the hearing shall
7 pay the costs of the removal and storage.

8 (b) If in a hearing held under this chapter the court does
9 not find that a person or law enforcement agency authorized, with
10 probable cause, the removal and storage in a vehicle storage
11 facility of a vehicle, the person or law enforcement agency that
12 authorized the removal shall:

13 (1) pay the costs of the removal and storage; or

14 (2) reimburse the owner or operator for the cost of the
15 removal and storage paid by the owner or operator.

16 Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF
17 VEHICLE TO HEARING. The owner or operator of a vehicle that has
18 been removed and placed in a vehicle storage facility without the
19 consent of the owner or operator of the vehicle is entitled to a
20 hearing on whether probable cause existed for the removal and
21 placement.

22 Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under
23 this chapter shall be in the justice court having jurisdiction in
24 the precinct in which the vehicle storage facility is located.

25 Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR
26 OPERATOR. (a) If before a hearing held under this chapter the
27 owner or operator of a vehicle pays the costs of the vehicle's

1 removal or storage, the towing company or vehicle storage facility
2 that received the payment shall at the time of payment give the
3 owner or operator written notice of the person's rights under this
4 chapter.

5 (b) The operator of a vehicle storage facility that sends a
6 notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~] shall
7 include with that notice a notice of the person's rights under this
8 chapter.

9 Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice
10 under Section 2308.454 [~~685.005~~] must include:

11 (1) a statement of:

12 (A) the person's right to submit a request within
13 14 days for a court hearing to determine whether probable cause
14 existed to remove the vehicle;

15 (B) the information that a request for a hearing
16 must contain; and

17 (C) any filing fee for the hearing;

18 (2) the name, address, and telephone number of the
19 towing company that removed the vehicle;

20 (3) the name, address, and telephone number of the
21 vehicle storage facility in which the vehicle was placed;

22 (4) the name, address, and telephone number of the
23 person, property owner, or law enforcement agency that authorized
24 the removal of the vehicle; and

25 (5) the name, address, and telephone number of the
26 justice court having jurisdiction in the precinct in which the
27 vehicle storage facility is located.

1 Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except
2 as provided by Subsection (c), a person entitled to a hearing under
3 this chapter must deliver a written request for the hearing to the
4 court before the 14th day after the date the vehicle was removed and
5 placed in the vehicle storage facility, excluding Saturdays,
6 Sundays, and legal holidays.

7 (b) A request for a hearing must contain:

8 (1) the name, address, and telephone number of the
9 owner or operator of the vehicle;

10 (2) the location from which the vehicle was removed;

11 (3) the date when the vehicle was removed;

12 (4) the name, address, and telephone number of the
13 person or law enforcement agency that authorized the removal;

14 (5) the name, address, and telephone number of the
15 vehicle storage facility in which the vehicle was placed;

16 (6) the name, address, and telephone number of the
17 towing company that removed the vehicle;

18 (7) a copy of any receipt or notification that the
19 owner or operator received from the towing company or the vehicle
20 storage facility; and

21 (8) if the vehicle was removed from a parking
22 facility:

23 (A) one or more photographs that show the
24 location and text of any sign posted at the facility restricting
25 parking of vehicles; or

26 (B) a statement that no sign restricting parking
27 was posted at the parking facility.

1 (c) If notice was not given under Section 2308.454
2 [~~685.005~~], the 14-day deadline for requesting a hearing under
3 Subsection (a) does not apply, and the owner or operator of the
4 vehicle may deliver a written request for a hearing at any time.

5 (d) A person who fails to deliver a request in accordance
6 with Subsection (a) waives the right to a hearing.

7 Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court
8 may charge a filing fee of \$20 for a hearing under this chapter.

9 Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this
10 chapter shall be held before the 10th working day after the date the
11 court receives the request for the hearing.

12 (b) The court shall notify the person who requested the
13 hearing and the person or law enforcement agency that authorized
14 the removal of the vehicle of the date, time, and place of the
15 hearing by registered or certified mail. The notice of the hearing
16 to the person or law enforcement agency that authorized the removal
17 of the vehicle shall include a copy of the request for hearing.

18 (b-1) At a hearing under this section:

19 (1) the burden of proof is on the person who requested
20 the hearing; and

21 (2) hearsay evidence is admissible if it is considered
22 otherwise reliable by the justice of the peace.

23 (c) The issues in a hearing under this chapter are:

24 (1) whether probable cause existed for the removal and
25 placement of the vehicle;

26 (2) whether a towing charge imposed or collected in
27 connection with the removal or placement of the vehicle was greater

1 than the amount authorized by the political subdivision under
2 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

3 (3) whether a towing charge imposed or collected in
4 connection with the removal or placement of the vehicle was greater
5 than the amount authorized under Section 2308.203 [~~643.204~~] or
6 2308.204 [~~643.205~~]; or

7 (4) whether a towing charge imposed or collected in
8 connection with the removal or placement of the vehicle was greater
9 than the amount filed with the department under Section 2308.206
10 [~~643.207~~].

11 (d) The court shall make written findings of fact and a
12 conclusion of law.

13 (e) The court may award:

14 (1) court costs to the prevailing party;

15 (2) the reasonable cost of photographs submitted under
16 Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or
17 operator who is the prevailing party; and

18 (3) an amount equal to the amount that the towing
19 charge exceeded fees regulated by a political subdivision or
20 authorized by this code or by Chapter 2303 [~~Occupations Code~~].

21 Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing
22 under this chapter is governed by the rules of procedure applicable
23 to civil cases in justice court, except that no appeal bond may be
24 required by the court.

25 SECTION 2.08. Chapter 2308, Occupations Code, is amended by
26 adding Subchapter K to read as follows:

1 (3) employs an individual who does not hold the
2 appropriate license required by this chapter; or

3 (4) falsifies a certification or training.

4 (b) An offense under this section is a Class C misdemeanor.

5 SECTION 2.09. Section 643.253(d), Transportation Code, is
6 transferred to Subchapter K, Chapter 2308, Occupations Code,
7 renumbered as Section 2308.504, Occupations Code, and amended to
8 read as follows:

9 Sec. 2308.504. CRIMINAL PENALTY; TOWING. (a) [~~(a)~~] A
10 person commits an offense if the person:

11 (1) violates an ordinance, resolution, order, rule, or
12 regulation of a political subdivision adopted under Section
13 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~], for which the political
14 subdivision does not prescribe the penalty;

15 (2) charges or collects a fee in a political
16 subdivision that regulates the operation of tow trucks under
17 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~] that is not
18 authorized or is greater than the authorized amount of the fee;

19 (3) charges or collects a fee greater than the amount
20 authorized under Section 2308.204 [~~643.205~~];

21 (4) charges or collects a fee in excess of the amount
22 filed with the department under Section 2308.206 [~~643.207~~];

23 (5) violates Section 2308.205 [~~643.206~~]; or

24 (6) violates a rule of the department applicable to a
25 tow truck and towing company.

26 (b) An offense under this section is a misdemeanor
27 punishable by a fine of not less than \$200 or more than \$1,000 per

1 violation.

2 ARTICLE 3. CONFORMING AMENDMENTS

3 SECTION 3.01. Article 18.23(e), Code of Criminal Procedure,
4 is amended to read as follows:

5 (e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter~~
6 ~~685, Transportation Code~~], does not apply to a motor vehicle
7 directed by a law enforcement agency to be towed and stored for an
8 evidentiary or examination purpose.

9 SECTION 3.02. Section 101.141(a), Government Code, is
10 amended to read as follows:

11 (a) A clerk of a justice court shall collect fees and costs
12 as follows:

13 (1) additional court cost in certain civil cases to
14 establish and maintain an alternative dispute resolution system, if
15 authorized by the commissioners court of a county with a population
16 of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies
17 Code) . . . not to exceed \$3;

18 (2) additional filing fees:

19 (A) to fund Dallas County civil court facilities
20 (Sec. 51.705, Government Code) . . . not more than \$15; and

21 (B) for filing any civil action or proceeding
22 requiring a filing fee, including an appeal, and on the filing of
23 any counterclaim, cross-action, intervention, interpleader, or
24 third-party action requiring a filing fee, to fund civil legal
25 services for the indigent (Sec. 133.153, Local Government Code)
26 . . . \$2;

27 (3) for filing a suit in Comal County (Sec. 152.0522,

1 Human Resources Code) . . . \$1.50;

2 (4) fee for hearing on probable cause for removal of a
3 vehicle and placement in a storage facility if assessed by the court
4 (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~])
5 . . . \$20;

6 (5) court fees and costs, if ordered by the court, for
7 a suit filed by an inmate in which an affidavit or unsworn
8 declaration of inability to pay costs is filed by the inmate (Sec.
9 14.006, Civil Practice and Remedies Code) . . . the lesser of:

10 (A) 20 percent of the preceding six months'
11 deposits to the inmate's trust account administered by the Texas
12 Department of Criminal Justice under Section 501.014, Government
13 Code; or

14 (B) the total amount of court fees and costs;

15 (6) monthly payment for remaining court fees and costs
16 after the initial payment for a suit in which an affidavit or
17 unsworn declaration of inability to pay costs is filed by the inmate
18 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser
19 of:

20 (A) 10 percent of that month's deposit to the
21 inmate's trust account administered by the Texas Department of
22 Criminal Justice under Section 501.014, Government Code; or

23 (B) the total amount of court fees and costs that
24 remain unpaid;

25 (7) the following costs not otherwise charged to the
26 inmate under Section 14.006, Civil Practice and Remedies Code, if
27 the inmate has previously filed an action dismissed as malicious or

1 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

2 (A) expenses of service of process;

3 (B) postage; and

4 (C) transportation, housing, or medical care
5 incurred in connection with the appearance of the inmate in the
6 court for any proceeding; and

7 (8) the cost of a special program that a court may
8 order a child to attend after a finding that the child committed an
9 offense, if ordered by the court (Art. 45.057, Code of Criminal
10 Procedure) . . . costs of the program not to exceed \$100.

11 SECTION 3.03. Section 101.161, Government Code, is amended
12 to read as follows:

13 Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of
14 a municipal court shall collect:

15 (1) a fee for a hearing on probable cause for removal
16 of a vehicle and placement in a storage facility if assessed by the
17 court (Sec. 2308.457, Occupations Code [~~685.008, Transportation
18 Code~~]) . . . \$20; and

19 (2) the cost of a special program that a court may
20 order a child to attend after finding that the child committed an
21 offense, if ordered by the court (Art. 45.057, Code of Criminal
22 Procedure) . . . costs of the program not to exceed \$100.

23 SECTION 3.04. Section 2303.155(f), Occupations Code, is
24 amended to read as follows:

25 (f) The operator of a vehicle storage facility or
26 governmental vehicle storage facility may not charge an additional
27 fee related to the storage of a vehicle other than a fee authorized

1 by this section or a towing fee authorized by Chapter 2308 [~~Chapter~~
2 ~~643, Transportation Code~~].

3 SECTION 3.05. Section 643.101(d), Transportation Code, is
4 amended to read as follows:

5 (d) The owner of a tow truck that is used to perform
6 nonconsent tows, as defined by Section 2308.201, Occupations Code
7 [~~643.201~~], shall maintain on-hook cargo insurance in the amount of
8 at least \$50,000 per truck.

9 SECTION 3.06. Section 643.253(e), Transportation Code, is
10 amended to read as follows:

11 (e) An offense under Subsection (b) [~~or (d)~~] is a
12 misdemeanor punishable by a fine of not less than \$200 or more than
13 \$1,000 per violation.

14 SECTION 3.07. Section 1(1), Chapter 528, Acts of the 76th
15 Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas
16 Civil Statutes), is amended to read as follows:

17 (1) "Parking facility," "parking facility owner," and
18 "vehicle" have the meanings assigned by Section 2308.002,
19 Occupations Code [~~684.001, Transportation Code~~].

20 ARTICLE 4. TRANSITION AND EFFECTIVE DATE

21 SECTION 4.01. The following provisions of the
22 Transportation Code are repealed:

- 23 (1) Section 643.202;
24 (2) Section 684.001;
25 (3) Section 685.001;
26 (4) the heading to Subchapter E, Chapter 643;
27 (5) the heading to Chapter 684;

1 (6) the headings to Subchapters A, B, and F, Chapter
2 684; and

3 (7) the heading to Chapter 685.

4 SECTION 4.02. As soon as practicable after the effective
5 date of this Act, the presiding officer of the Texas Commission of
6 Licensing and Regulation shall make the initial appointments to the
7 Towing and Storage Advisory Board. The presiding officer shall
8 appoint three members to terms expiring February 1, 2009, three
9 members to terms expiring February 1, 2011, and three members to
10 terms expiring February 1, 2013.

11 SECTION 4.03. (a) All rules of the Texas Transportation
12 Commission and the Texas Department of Transportation relating to
13 the administration of Chapter 2303, Occupations Code, are continued
14 in effect as rules of the Texas Commission of Licensing and
15 Regulation or the executive director of the Texas Department of
16 Licensing and Regulation until superseded by a rule of the Texas
17 Commission of Licensing and Regulation or the executive director of
18 the Texas Department of Licensing and Regulation. A license issued
19 under Chapter 2303, Occupations Code, by the Texas Department of
20 Transportation is continued in effect as provided by the law in
21 effect immediately before the effective date of this Act. A
22 complaint, investigation, contested case, or other proceeding
23 pending on the effective date of this Act is continued without
24 change in status after the effective date of this Act. An
25 inspection or other activity under Chapter 2303, Occupations Code,
26 that is conducted by the Texas Transportation Commission or the
27 Texas Department of Transportation is considered to be an

1 inspection or activity conducted by the Texas Commission of
2 Licensing and Regulation or the Texas Department of Licensing and
3 Regulation.

4 (b) A reference in another law or an administrative rule to
5 the powers and duties under Chapter 2303, Occupations Code, of the
6 Texas Transportation Commission or the Texas Department of
7 Transportation means the Texas Commission of Licensing and
8 Regulation or the Texas Department of Licensing and Regulation.

9 SECTION 4.04. The executive director of the Texas
10 Department of Licensing and Regulation and the Texas Commission of
11 Licensing and Regulation, as appropriate, shall adopt rules under
12 Chapter 2308, Occupations Code, as added by this Act, relating to:

13 (1) an original application for a permit or license
14 under that chapter not later than March 1, 2008; and

15 (2) renewal of a license or permit and continuing
16 education requirements not later than January 1, 2009.

17 SECTION 4.05. The Texas Department of Licensing and
18 Regulation shall issue an incident management towing permit,
19 private property towing permit, consent towing permit, incident
20 management towing operator's license, private property towing
21 operator's license, or consent towing operator's license to a
22 qualified applicant under this section who:

23 (1) applies for a license under this section not later
24 than June 1, 2008;

25 (2) submits to the department the information required
26 by rules adopted by the executive director of the department under
27 this section; and

1 (3) pays the application fee.

2 SECTION 4.06. (a) Except as provided by Subsections (b) and
3 (c) of this section, this Act takes effect September 1, 2007.

4 (b) Except as provided by Subsection (c) of this section,
5 Section 2308.453, Occupations Code, as added by this Act, and
6 Subchapters C and D, Chapter 2308, Occupations Code, as added by
7 this Act, take effect September 1, 2008.

8 (c) Section 2308.160, Occupations Code, as added by this
9 Act, takes effect September 1, 2009.